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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
KEITH W. COOLEY, DIRECTOR

KEN ROSS
ACTING COMMISSIONER

Memorandum

DATE: December 21, 2007
TO: All interested parties
FROM: Ken Ross, Acting Commissioner
Office of Financial and Insurance Services

SR

SUBJECT: Determination on Degree of Competition in Commercial Liability Market

Pursuant to MCL § 500.2409(c), I have determined that a reasonable degree of competition in the statewide commercial liability insurance market exists. While the commercial liability insurance market remains in a mildly hard phase of the underwriting cycle, signs of a softening on the market are surfacing.

The commercial liability insurance market experienced a hardening market of increasing premiums from 2002-2004, with a softening of the market occurring in 2005 and 2006. This five-year period was initially influenced by the terrorist attacks of September 11, 2001, which saw total premiums rising for the subsequent 3-year period by 9 percent. The years 2005 and 2006 experienced a softening of the market with premiums declining by 6 percent since 2004.

The commercial liability insurance market is still reasonably competitive. There are 266 insurers writing this coverage which offers many policy options to companies. Moreover, no single company controls all or a significant part of the commercial liability insurance market. Available data indicate that the largest insurer had an 8.48% market share of direct premiums written and the next 7 insurers accounting for 32.34% of the market.

The Office of Financial and Insurance Services is not aware of any serious availability problems in any geographic area in the state for any type of commercial liability insurance.

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.2409c Public hearing; issuance and contents of tentative report; request for contested hearing; final report and certification; considerations.

Sec. 2409c. (1) By May 15, 2003 and by May 15 annually thereafter, the commissioner shall make an annual determination as to whether a reasonable degree of competition in the commercial liability insurance market exists on a statewide basis. If the commissioner determines that a reasonable degree of competition in the commercial liability insurance market does not exist on a statewide basis, the commissioner shall hold a public hearing and shall issue a report delineating specific classifications and kinds or types of insurance, if any, where a reasonable degree of competition does not exist. The report shall be based on relevant economic tests, including, but not limited to, those in subsection (3). The findings in the report shall not be based on any single measure of competition, but appropriate weight shall be given to all measures of competition. Any person who disagrees with the report and findings of the commissioner may request a contested hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, not later than 60 days after issuance of the report under this subsection.

(2) If the results of the report issued under subsection (1) are disputed or if the commissioner determines that circumstances that the report was based on have changed, the commissioner shall issue a supplemental report to the report under subsection (1) which shall include a certification of whether or not a reasonable degree of competition exists in the commercial liability insurance market. The supplemental report and certification shall be issued not later than November 15 immediately following the release of the report under subsection (1) that this report supplements and shall be supported by substantial evidence.

(3) All of the following shall be considered by the commissioner for purposes of subsections (1) and (2):

(a) The extent to which any insurer controls the commercial liability insurance market, or any portion of the commercial liability insurance market.

(b) Whether the total number of companies writing commercial liability insurance in this state is sufficient to provide multiple options to commercial liability insurance purchasers.

(c) The disparity among commercial liability insurance rates and classifications to the extent that such classifications result in rate differentials.

(d) The availability of commercial liability insurance to commercial liability insurance purchasers in all geographic areas and all types of business.

(e) The residual market share.

History: Add. 1986, Act 318, Eff. June 1, 1987;—Am. 2002, Act 621, Imd. Eff. Dec. 23, 2002.

Popular name: Act 218